



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SEP 02 2016

CERTIFIED MAIL 7015 1730 0001 8044 3880

RETURN RECEIPT REQUESTED

Mr. Ron Austin, Plant Manager
Dunbar Foods Corp.
P.O. Box 519
Dunn, North Carolina 28335

Re: Notice of Violation and Opportunity to Show Cause Pursuant to Section 309(a) of the Clean Water Act (CWA), 33 U.S.C. § 1319
Dunbar Foods Corp., NPDES No. NCG060089

Mr. Austin:

On February 9, 2016, the U.S. Environmental Protection Agency Region 4 conducted a Compliance Stormwater Evaluation Inspection (CSWEI) at the site, known as Dunbar Foods, Inc., located at 1000 S. Fayetteville Avenue, Dunn, Harnett County, North Carolina, 28335 (Site) for which Dunbar Foods, Corp., (Dunbar) is the Owner and Operator. The purpose of the CSWEI was to evaluate Dunbar's compliance with the requirements of Sections 301 and 402(p) of the Clean Water Act (CWA), 33 U.S.C. §§ 1311 and 1342(p); the regulations promulgated thereunder at 40 C.F.R. § 122.26; and the State of North Carolina's General Permit to Discharge Stormwater under the National Pollutant Discharge Elimination System for establishment primarily engaged in Food and Kindred Activities, Permit No. NCG060000 (Permit).

The CSWEI inspection report, dated April 28, 2016, was submitted earlier to you for review. Subsequent investigative efforts and EPA's review of the Stormwater Pollution Prevention Plan (SPPP) dated February 1998, have revealed that Dunbar failed to comply with the requirements of Sections 301 and 402(p) of the CWA, 33 U.S.C. §§ 1311 and 1342(p), and its implementing regulations at 40 C.F.R. § 122.26, and the Permit. Specifically, the EPA hereby notifies Dunbar pursuant to Section 309(a) of the CWA, 33 U.S.C. § 1319(a), of the following findings of violations:

1. ***Part II, Section A, Paragraph 1(a) of the Permit states that the SPPP shall contain: "A general location map showing the facility's location in relation to transportation routes and surface waters; the name of the receiving waters to which the stormwater outfalls discharge," and "accurate latitude and longitude of the points of stormwater discharge associated with industrial activity," as well as "identify whether any receiving waters are impaired or if the site is located in a watershed for which a TMDL has been established." In addition, Part II, Section A, Paragraph 1(c) of the Permit states that the SPPP shall contain: "A site map drawn at a scale sufficient to clearly depict: the site property boundary; the stormwater discharge outfalls; all on-site and adjacent surface waters and wetlands; industrial activity areas; site topography and finished grade; all drainage features and structures; drainage area***

boundaries and total contributing areas for each outfall; direction of flow in each drainage area; industrial activities occurring in each drainage areas; buildings; stormwater Best Management Practices (BMPs); and impervious surfaces. The site map must indicate the percentage of each drainage area that is impervious."

Dunbar's stormwater drainage plan, which serves both as the general location map and site map, did not depict any site topography and finished grade, drainage features, percentage of each drainage area that is impervious, and receiving waters information.

2. **Part II, Section A, Paragraph 1(b) of the Permit states that the SPPP shall contain: "A narrative description of storage practices, loading and unloading activities, outdoor process areas, dust or particulate generating or control processes, and waste disposal practices. A narrative description of the potential pollutants that could be expected to be present in the stormwater discharge from each outfall."**
 - a. *The SPPP, dated February 1998, did not have any narrative description of the potential outdoor pollutant sources and the potential pollutants associated with each source.*
 - b. *The runoff from material storage area in front of warehouse 4 was not identified and evaluated in the SPPP as a potential pollutant source.*
 - c. *The industrial activity associated with outdoor washing of the wooden pallets was not identified and evaluated in the SPPP as a potential pollutant source.*
3. **Part II, Section A, Paragraph 1(e) of the Permit states: "The permittee shall re-certify annually that the stormwater outfalls have been evaluated for the presence of non-stormwater discharges."**

The facility had no annual non-stormwater discharge re-certification records.
4. **Part II, Section A, Paragraph 5 of the Permit states "Inspections of the facility and all stormwater systems shall occur as part of the Preventative Maintenance and Good Housekeeping Program at a minimum on a semi-annual schedule."**

The facility had no preventative maintenance and good housekeeping inspection records. Section 7.1 of the SPPP requires the these inspection to be conducted on a semi-annual schedule in accordance with the Permit. However, the SPPP, dated February 1998, requires these preventative maintenance inspections to be conducted on a more stringent monthly schedule (see Section 3.1 of the SPPP).
5. **Part II, Section A, Paragraph 6 of the Permit states: "Training programs shall be developed and training provided at a minimum on an annual basis for facility personnel with responsibilities for: spill response and cleanup, preventative maintenance activities, and for any of the facility's operations that have the potential to contaminate stormwater runoff. The facility personnel responsible for implementing the training shall be identified, and their annual training shall be documented by the signature of each employee trained."**

Since the security guard has the responsibility of checking for leaks and spills at night, he should be trained on spill response procedures and spill reporting.
6. **Part II, Section A, Paragraph 7 of the Permit states: "The SPPP shall identify a specific position or position responsible for the overall coordination, development, implementation, and revision of the SPPP."**

The roles and responsibilities of various team members in the SPPP are not current.

7. **Part II, Section A, Paragraph 8 of the Permit states: "The permittee shall amend the SPPP whenever there is a change in design, construction, operation, site drainage, maintenance or configuration of the physical features which may have a significant effect on the potential for discharge of pollutants to surface waters. All aspects of the SPPP shall be reviewed and updated on an annual basis."**
- a. The SPPP, dated February 1998, does not reflect the current state permit requirements which became effective on December 12, 2012.
 - b. Annual updates have not been conducted as required by the Permit for the past seven years.
 - c. The SPPP identified five storm water outfalls. During the inspection, Dunbar representative stated there were three storm water outfalls which is inconsistent with the number of outfalls in the SPPP. However, information submitted by Dunbar stated that two of the outfalls are approved by the State as a common representative outfall. For the requirement of qualitative monitoring requirements and facility inspection requirements, each stormwater outfall must be evaluated and inspected regardless of representative outfall status.
 - d. The runoff from the material storage area in front of warehouse 4 was not identified and evaluated in the SPPP as a potential pollutant source.
 - e. The industrial activity associated with outdoor washing of the wooden pallets was not identified and evaluated in the SPPP as a potential pollutant source.
8. **Part II, Section B of the Permit specifies that stormwater samples shall be collected after a dry weather interval of at least 72-hours from previous storm event and within first 30 minutes of discharge (first flush condition).**
Sample collection records did not have adequate documentation of rainfall date and sampling collection time.
9. **Part II, Section B of the Permit states: "If the first valid sampling results are above a benchmark value, or outside of the benchmark range, for any parameter at any outfall; Then the permittee shall conduct a stormwater management inspection of the facility, identify and evaluate possible causes of the benchmark value exceedance, identify potential and select the specific: source controls, operational controls, or physical improvements to reduce concentrations of the parameters of concern, and/or to bring concentration within the benchmark range, implement the selected actions within two months of the inspection, and record each instance of a Tier One response in the SPPP. Include the date and value of the benchmark exceedance, the inspection date, the personnel conducting the inspection, the selected actions, and the date the selected actions were implemented."**
Dunbar exceeded the benchmark values for Total Suspended Solids (TSS) at outfall 1 on October 15, 2014, and August 8, 2015. In these two instances of TSS exceedances, there were no dates given for the implementation of the erosion and sediment control. During this two year period, there were no status reports on the effectiveness of each Tier One response in the SPPP and in the routine site inspection reports.
10. **Part III, Section C, Paragraph 1 of the Permit states: The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this Permit."**
During EPA's on-site evaluation of pollutant sources and SPPP implementation, the following operation and maintenance deficiencies were observed:

- a. *Trash deposit was observed on top of the main storm drain.*
 - b. *The concrete secondary containment for the # 2 diesel tank has no lock to prevent personnel from accidentally opening the valve.*
 - c. *Used oil tank was dripping down the side onto the ground and draining out of the covered area. Also, no spill kit was observed in the machine shop area.*
 - d. *Chemical drum in open storage area lacks secondary containment to prevent spills.*
 - e. *Two containers were used for the disposal of rejected or damaged can products. Holes were punched in these cans to release the sweet potato syrup. The syrup was allowed to leak onto the ground and drain into a storm drain that tied in to a holding tank. The area near the storm drain does not have adequate containment or berm to prevent contaminated stormwater from draining offsite. Additionally, this syrup could attract rodents.*
 - f. *Two trash dumpsters did not have covers to minimize exposure to stormwater.*
11. ***Part III, Section D, Paragraph 4 of the Permit requires that test procedures for the analysis of pollutants conform to 40 C.F.R. 136. 40 C.F.R. 136 specifies that Oil and Grease (O & G) samples shall be collected in a glass container.***
Laboratory bench data showed that O & G samples were collected in a plastic bottle instead of a glass bottle.

Until compliance with the CWA is achieved, Dunbar is considered to be in violation of the CWA and may be subject to enforcement action pursuant to Section 309 of the CWA, 33 U.S.C. § 1319. This Section provides for the issuance of administrative penalty and/or compliance orders and the initiation of civil and/or criminal actions.

The EPA also requests that representatives of Dunbar contact the EPA within seven (7) business days of receipt of this letter to arrange a meeting in this office to show cause why the EPA should not take formal civil enforcement action against Dunbar for these violations and any other potential violations, including the assessment of appropriate civil penalties. In lieu of appearing in person, a telephone conference may be scheduled. Dunbar should be prepared to provide all relevant information with supporting documentation pertaining to the violations, including but not limited to any financial information which may reflect an inability to pay a penalty. Dunbar has the right to be represented by legal counsel.

All information submitted in response to this letter and/or during the show cause meeting must be accompanied by the following certification that is signed by a duly authorized official in accordance with 40 C.F.R. § 122.22:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Please be aware that the EPA may use information provided during the meeting or telephone conference in any enforcement proceeding related to this matter. Failure to schedule a show cause meeting may result in a unilateral enforcement action against Dunbar. Notwithstanding the scheduling of a show

cause meeting, the EPA retains the right to bring further enforcement action under Sections 309 of the CWA, 33 U.S.C. § 1319, for the violations cited therein or for any other violation of the CWA.

Please contact LCDR Tara Houda at (404) 562-9762 or Mr. Kenneth Kwan at (404) 562-9752 to arrange a show cause meeting or if you have any questions or concerns. Legal inquiries should be directed to Ms. Kavita Nagrani, Associate Regional Counsel, at (404) 562-9697.

Sincerely,



James D. Giattina
Director

Water Protection Division

cc: Mr. Bradley Bennett
North Carolina Department of Environmental Quality